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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/710,252      | 06/29/2004  | Thomas D. Furland    | BUR920040159US1     | 4251             |

29154 7590 05/28/2009  
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| EXAMINER |
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| ART UNIT | PAPER NUMBER |
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3623

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| MAIL DATE | DELIVERY MODE |
|-----------|---------------|

05/28/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |   |                                       |  |
|------------------------------|---|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/710,252    | <b>Applicant(s)</b><br>FURLAND ET AL. |  |
|                              | <b>Examiner</b><br>TIPHANY B. DICKERSON | <b>Art Unit</b><br>3623               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **Detailed Action**

### **I. Introduction**

This is a Final Action in response to the correspondence filed on March 9, 2009. Claims 1-15 have been amended. No claims were canceled and no claims were added. Claims 1-20 are now pending in this action.

### **II. Response to Amendment**

Examiner acknowledges Applicants amendment of the claims 8-14 as being directed to non-statutory subject matter under § 101 stands. Claim 1 was amended as directed to a system which includes “a report output device”; likewise, Claim 15 was amended to include “an output device” according to Fig. 5, Ele. 532 of Applicant's disclosure. Examiner finds the amendment sufficient to overcome the rejections of claims 1-7 and 15-20 under § 101 as well as the § 112 rejections of claims 15-20. Therefore, the § 101 and § 112 rejections of the referenced claims are hereby withdrawn.

Finally, the § 102(b) rejections of claims 1-20 as being anticipated by *Dabbieri et al.*, (US 2002/0013721) are not withdrawn in response to Applicant's amendment. The amendment fails to cure the previous rejections as noted in the response below.

### **III. Response to Arguments**

*§ 101 Rejections.* Applicant asserts that the inclusion of the amended elements of claim 8 render the claim compliant with § 101. Examiner respectfully disagrees.

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Despite the addition of elements such as “a supply side reconciler that performs” and “a rules database that processes”, claim 8 still fails to recite structure of the apparatus. Instead, the elements are directed to various software modules that perform the underlying processes.

*§ 102(b) Rejections.* Applicant's arguments have been fully considered but they are not persuasive for the reasons noted in the response below.

***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 8-14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 8-14 are rejected because they recite a “system,” but fail to recite any associated structure of the apparatus. For example, the body of claim 8 recites an output device and various “modules” for performing the underlying processes, but fails to point out the structural devices performing the tasks. This constitutes software per se, which is non-statutory per se.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by *Dabbieri, et al., U.S. Patent Application Publication No. 2002/0013721*.

*Concerning claim 1, Dabbieri* discloses a system of transferring data streams across a supply chain at a first location to a demand chain at a second location (Title and Abstract; See also ¶¶ 20 and 31 , wherein the supplier and demand chains are at different locations), said system comprising:

a trigger event monitor defining a trigger event to be monitored at a first location (See ¶ 37, wherein translations or transformations occur either automatically or by user command);

a database that stores business rules regarding reconciliation spans and exceptions (See Fig. 1, Ele 124, discussed at ¶ 21) ;

a transformation unit that performs transformations on said data streams and trigger event data (See ¶¶ 35-37, wherein data is translated into usable format after trigger event; See e.g., ¶ 45, wherein after a buyer's request, the appropriate supplier personnel is notified and a purchase order created) by placing said data into appropriate categories for manufacturing lot trace capability as controlled by a relationship between components and devices in a bill of materials and parentage information;

a supply side reconciler that performs a supply side reconciliation of said data transformed data streams and said trigger event data to determine whether said transformed data streams are consistent with said trigger event data; (See ¶46, i.e. performing certain validations, and further ¶47, particularly explaining supply side validation) and

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a demand side reconciler that performs a demand side reconciliation of said transformed data streams with said trigger event data based upon the occurrence of said trigger event data (See ¶46, i.e. performing certain validations and further acknowledging purchase order);

said database processing said reconciled data to produce entitled test data with customer entitlement information including one of what type of data each customer is entitled to receive and which type of products and components each customer is entitled to receive such information (¶ 42, wherein a supplier may control data visibility viewable by the entity, i.e., customer type).

said database verifying completeness of said entitled test data and whether said entitled test data is supplied to said selective point in said demand chain (¶ 42, wherein a supplier may control data visibility wherein data is selectively delivered to particular target such as Macy's mens department; ¶ 65, wherein supply side confirms the customer receipt of goods shipped).); and

a report output device at the location of said demand side reconciler that outputs a report based on said performing said demand side reconciliation (¶59, i.e., monitor, cell phone, pager or personal digital assistant).

*Concerning claim 8, Dabbieri* discloses a system that transfers test data from a supply chain at a first location to a demand chain, said method comprising:

a supply side reconciler that performs a supply side reconciliation of said test data at said first location and a demand side reconciler that performs a demand side

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reconciliation of said test data at said second location upon the occurrence of a trigger event in said supply chain to produce reconciled data (See ¶46, i.e. performing certain validations, and further ¶¶ 47 and 57; See also 20 and 31, i.e., first and second locations) and;

a rules database that processes said reconciled data to produce entitled test data for completeness (See ¶ 28, lines 8-14, wherein users have ability to control visibility of and access certain data); and See also ¶ 66, i.e. manger can view entitlements by logging in to view the Bill of Lading);

said rules database storing at least one demand chain location to which said entitled test data is transmitted based on customer entitlement information including one of what type of data each customer is entitled to receive and which type of products and components each customer is entitled to receive such information (¶ 42, as discussed in claim 1); and

verifying that said entitled test data is supplied to said at least one location in said demand chain (See ¶ 65, wherein supply side confirms the customer receipt of goods shipped).

*Concerning claim 15, Dabbieri* discloses the system for transferring test data from a supply chain at a first location to a demand chain at a second location, said system comprising:

a trigger event monitor that receives information of a trigger event at one of said first and second location; (See ¶ 37, wherein translations or transformations occur either automatically or by user command);

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a supply side reconciler in communication with said trigger event monitor, and being adapted to perform a supply side reconciliation of said test data upon an occurrence of a trigger event, wherein said supply reconciliation determines whether said test data are consistent with said trigger event data (See ¶46, i.e. performing certain validations, and further ¶47, particularly explaining supply side validation);

a demand side reconciler in communication with said trigger event monitor, and being adapted to perform a demand side reconciliation of said test data upon the occurrence of said trigger event (See ¶46, i.e. performing certain validations and further acknowledging purchase order); and

a rules database in communication with said supply side reconciler and said demand side reconciler, and being adapted to produce entitled test data based on said supply side reconciliation and said demand side reconciliation and to verify that the said entitled test data is supplied to selective points in said demand chain (Fig. 1, Ele. 124, discussed at ¶21)

said rules database storing selective points in said demand chain that receive said entitled test data(¶ 42);

said rules database verifying that the entitled test data is supplied to said selective points in the said demand chain (¶ 42) and

an output device at said second location to output a report based on said performing said demand side reconciliation (¶59).



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*Concerning claims, 2, 9, and 16, Dabbieri* discloses the methods and system of claims 1, 8, and 17, wherein said supply side reconciliation process comprises reconciling said trigger event data with said data streams (See ¶ 47, i.e., actual inventory supply side check and visual alert; See also, ¶ 49, i.e. order update/approval). Data streams and test data are interpreted as synonymous per (¶ 27 of applicants specification).

*Concerning claim 3, 10, and 17, Dabbieri* discloses the method in claims 1, 8, and 17,

wherein said trigger event comprises notification of goods being sent from a point in said supply chain (See ¶ 59, i.e., reporting quantities and status updates within the factory; See also ¶ 63, wherein shipper posts updates);

wherein and said supply side reconciliation determines whether a data stream associated with said goods is consistent with said notification (See ¶ 65, wherein supply side (i.e. sales manager) confirms the customer receipt of goods shipped).

*Concerning claim 4, 11, and 18, Dabbieri* discloses the methods and system of claims 1, 8, and 17, wherein said demand side reconciliation process comprises determining whether said data streams are complete and whether said data streams were sent to said demand chain (See ¶ 66, wherein retail buyer manager can view the Bill of Lading to view when their personnel took possession of the goods).

*Concerning claim 5, 12, and 19, Dabbieri* discloses the systems of claims 1, 8, and 17, wherein said processes of performing said supply side reconciliation and said demand side reconciliation are one of: selectively delayed a predetermined period after said trigger event (See ¶ 59, wherein alert is delayed until after status reaches a criteria, in this case 80%); and selectively advanced a

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predetermined period before said trigger event (See ¶ 59, wherein an alert is advanced before the order is 100% complete).

*Concerning claim 6, 13, and 20, Dabbieri* discloses the methods and system of claims 1, 8, and 17,

wherein said data streams relate to a component of a device being manufactured in said supply chain (See ¶¶ 56 and 59, i.e., Tommy Hilfiger products being manufactured in a factory) and

wherein said data streams are supplied one of after said component is completed and during the manufacturing of said component (See ¶¶ 60-62, wherein product and associated data is exchanged from factory-to-shipper-to-supplier distribution center-to-shipper-to-retail distribution center).

*Concerning claim 7 and 14, Dabbieri* discloses the system in claim 1 and 8, wherein supply side reconciliation and said demand side reconciliation include a process of correcting said data streams (See ¶ 56, wherein the system updates the additional request in its own database to indicate that it has been accepted).

TIPHANY B. DICKERSON  
Examiner  
Art Unit 3623  
27 May 2009

/Andre Boyce/

Primary Examiner, Art Unit 3623